

**MEMORANDUM OF AGREEMENT
BETWEEN THE FEDERAL HIGHWAY ADMINISTRATION, GEORGIA DIVISION
AND
GEORGIA DEPARTMENT OF TRANSPORTATION
REGARDING
RESPONSIBILITIES AND COMMITMENTS FOR ENVIRONMENTAL PROCESS
PROGRAM/PROJECT ACTIONS
FOR FEDERAL-AID HIGHWAY PROJECTS**

WHEREAS, the Stewardship and Oversight Agreement on Project Assumption and Program Oversight identifies the authorities and responsibilities of the FHWA Georgia Division (FHWA) and Georgia Department of Transportation (GDOT) with respect to Title 23 project approvals and related responsibilities, and federal-aid highway program oversight activities; and

WHEREAS, the FHWA and GDOT Office of Environmental Services (OES) agree that a written understanding of responsibilities and commitments of each party for implementing the processes associated National Environmental Policy Act (NEPA) and other environmental law compliance is beneficial to both parties; and

WHEREAS, both parties agree that the preparation of technically complete and sufficient studies and documents is critical to minimizing inefficiencies and costs of the environmental process and assuring regulatory compliance; and

WHEREAS, GDOT is responsible for the quality and completeness of documents submitted to FHWA, including those prepared by Local Public Agencies; and

WHEREAS, FHWA is responsible for the legal sufficiency of environmental documents; and

WHEREAS, FHWA is responsible for timely responses to GDOT requests for FHWA action;

WHEREAS, GDOT may rely upon the FHWA response times listed below for project baseline schedule development; and

WHEREAS, FHWA and GDOT have consulted and agreed to the commitments listed below for the specific activities required by each party as part of the environmental process.

MAY 13 2015

RESPONSIBILITIES AND COMMITMENTS

Activity	Authority	Frequency	Action
PM 2.5 Project Level Coordination with Interagency Consultation Group (ICG)	40 CFR 93 40 CFR 51.390	As Submitted by GDOT	GDOT: Prepares and submits PM 2.5 exempt projects or PM 2.5 letter(s) of determination letter to FHWA pursuant to the Project Level PM 2.5 Procedures MOA. FHWA: Review/request further information or forward to ICG for concurrence per Project Level PM 2.5 Procedures MOA.
Endangered Species Act Section 7 Compliance – USFWS Jurisdiction	50 CFR 402	As Submitted by GDOT	GDOT: Prepare and submit Ecology Survey Report/Assessment of Effects (AOE) or Biological Assessment (BA) to FHWA. Request FHWA determination of effect and/or initiation of USFWS consultation. FHWA: Reviews/comments or notifies USFWS and/or NMFS of Section 7 ESA determination of effect and/or requests consultation as appropriate for determination of effect pursuant to the Joint Coordination Procedures.
Endangered Species Act Section 7 Compliance – NOAA NMFS Jurisdiction	50 CFR 402	As Submitted by GDOT	GDOT: Prepare and submit Ecology Survey Report/AOE or BA FHWA. <i>No Effect:</i> Request FHWA determination of No Effect <i>May Affect:</i> Submit Ecology AOE to NMFS and initiate informal consultation and consult on FHWA behalf. Upon completion of consultation, request FHWA to make determination of effect. <i>Adverse Effect:</i> Request FHWA to initiate formal consultation. FHWA: Reviews/comments on Ecology Reports, enters informal consultation process as warranted. Makes Section 7 determination of effect. (21 days)
FWCA Coordination	16 USC Sec. 662	As Submitted by GDOT	GDOT: Prepare and submit Ecology AOE to FHWA and request FHWA to initiate FWCA coordination. FHWA: Reviews/comments or initiates coordination with USFWS as appropriate effect pursuant to timelines established in the Joint Coordination Procedures.
Essential Fisheries Habitat (EFH) Consultation	50 CFR 600.905-930	As Submitted by GDOT	GDOT: <i>Potential effect to EFH:</i> If potential effect to EFH, prepare/and submit EFH Screening Form and supplemental information to FHWA. Submit request for “may adversely affect determination” for EFH. <i>No potential effect to EFH:</i> If no potential effect to EFH, document in Ecology AOE. FHWA: Review/comment or transmit EFH Screening Form and supplemental information to NMFS with a determination of effect to EFH. (21 days) Conduct consultation.
US Coast Guard Navigability Determination	23 CFR 650.805	As Submitted by GDOT	GDOT: Prepare and submit completed Bridge Questionnaire to FHWA. FHWA: Send Title 23 Section 144(h) Determination to US Coast Guard. (15 days)

Activity	Authority	Frequency	Action
Section 106: Resolution of Adverse Effects to Historic/Archaeological Resources	36 CFR 800.6	As Submitted by GDOT	GDOT: Prepare and submit 106 Assessment of Effects (AOE), documentation of public involvement and draft MOA (if needed) to FHWA. FHWA: Invite Advisory Council for Historic Preservation to participate in resolution of adverse effects after Section 106 public involvement is completed. (21 days)
Section 106 Memorandum of Agreement	36 CFR 800.6	As Submitted by GDOT	GDOT: Prepare and submit Section 106 MOA to FHWA for signature. FHWA: Execute MOA when all Section 106 requirements, including public involvement, are met. (21 days)
Programmatic Categorical Exclusion (PCE)	23 CFR 771.117	As Needed	GDOT: Prepare, review and approve per approved PCE Agreement requirements. FHWA: Periodic process reviews as prescribed in PCE Agreement.
Non-Programmatic Categorical Exclusion (CE)	23 CFR 771.117	As Submitted by GDOT	GDOT: Prepare and submit CE for FHWA review and approval. FHWA: Review/comment or approve. (21 days)
Re-evaluation of Categorical Exclusion	23 CFR 771.129	As Submitted by GDOT	GDOT: Prepare and submit CE Re-evaluation for FHWA review & approval. FHWA: Review/comment or approve (15 days)
Draft Environmental Assessment (DEA)	23 CFR 771.119	As Submitted by GDOT	GDOT: Prepare & submit DEA for FHWA review & approval for advancement to public hearing. FHWA: Review/comment or review and approve to make available to public. (30 days)
Final EA/Request for FONSI	23 CFR 771.119 & 771.121	As Submitted by GDOT	GDOT: Prepare & submit Final EA/FONSI for FHWA review FHWA: Review/comment or issue FONSI. (30 days)
Draft Environmental Impact Statement (DEIS) (including Supplemental DEIS's)	23 CFR 771.123	As Submitted by GDOT	GDOT: Prepare & submit DEIS for FHWA review & approval for advancement to a public hearing. FHWA: Review/comment or approve. (60 days)
Final EIS (including Supplemental EIS's)	23 CFR 771.125	As Submitted by GDOT	GDOT: Prepare & submit FEIS for FHWA review & approval. FHWA: Review/comment or approve. (60 days)
Record of Decision (ROD)	23 CFR 771.127	As Submitted by GDOT	GDOT: Prepare Draft ROD for FHWA review and issuance of ROD FHWA: Coordinate with Chief Counsel's Office to review, revise and issue ROD (30 days) *Response times may be amended depending on complexity of the project.
Re-evaluation of Final EIS/ROD, or FONSI	23 CFR 771.129	As Submitted by GDOT	GDOT: Prepare & submit Reevaluation of FEIS/ROD or FONSI for FHWA review & approval. FHWA: Review/comment or approve Re-evaluation. (30 days)

Activity	Authority	Frequency	Action
Combined Final EIS/ROD		As Submitted by GDOT	GDOT: Prepare & submit combined FEIS/ FHWA review and approval. FHWA: Coordinate with Chief Counsel's Office to review, revise and approve FEIS and issue ROD (60 days) *Response times may be amended depending on complexity of the project.
Programmatic Section 4(f) Evaluation	23 CFR 774.3	As Submitted by GDOT	GDOT: Prepare & submit Programmatic 4(f) evaluation for FHWA review & approval. FHWA: Review/comment or approve (concurrent with NEPA document review. (21 days (CE); 30 days (EA); 60 days (EIS))
Draft Individual Section 4(f) Evaluation	23 CFR 774.7	As Submitted by GDOT	GDOT: Prepare & submit draft individual 4(f) evaluation for FHWA review & approval and circulation. FHWA: Review/comment or approve (concurrent with NEPA document review). Distribute to officials with jurisdiction over Section 4(f) property and DOI. (30 days)
Final Individual Section 4(f) Evaluation	23 CFR 774.7	As Submitted by GDOT	GDOT: Prepare & submit Final Individual 4(f) Evaluation for FHWA review & approval. FHWA: Coordinate with Chief Counsel's Office for Legal Sufficiency Determination (30 days). Provide to agencies with jurisdiction over Section 4(f) property and DOI.
Determination of Logical Termini	23 CFR 771.111	As Submitted by GDOT	GDOT: Planning: Prepare an initial review of potential logical termini on projects, as requested. OES: Prepare and submit Logical Termini justification for FHWA review and approval. FHWA: Review/comment or concur. (21 days)
Respond to FHWA Review Comments	NA	As Submitted by FHWA	GDOT: Provide FHWA with written response to comments on GDOT submittals. (30 days)

PERFORMANCE MONITORING

The performance indicators and reporting described in the Stewardship and Oversight Agreement on Project Assumption and Program Oversight, Section X.G. (Stewardship and Oversight Indicators) encompass the commitments contained in this Agreement. No additional monitoring is required under this MOA.

REPORTING

The annual report required by the Stewardship and Oversight Agreement on Project Assumption and Program Oversight, Section X.G. (Stewardship and Oversight Indicators) encompasses the commitments contained in this Agreement. No additional reporting is required under this MOA.

TERMINATION/ AMENDMENT

1. This Agreement may be modified by mutual consent at any time.

2. Any party to this Agreement may request that it be amended, whereupon the parties will consult to reach a consensus on the proposed amendment. Where no consensus can be reached, the Agreement will not be amended.
3. Any signatory to this Agreement may terminate it by providing thirty (30) days written notice to the other party, provided that the signatories and concurring parties consult during the period prior to termination to seek Agreement on amendments or other actions that would avoid termination.

DISPUTE RESOLUTION

The Dispute Resolution process described in the Stewardship and Oversight Agreement on Project Assumption and Program Oversight between FHWA and GDOT will be implemented in the event of a dispute between the signatory parties to this Agreement.

APPROVAL OF AGREEMENT

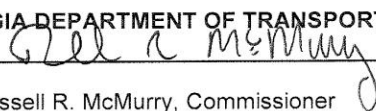
The undersigned have reviewed this Agreement and determined that it complies with the laws, regulations, and policies applicable to FHWA and GDOT. Accordingly, it is hereby approved and becomes effective on the last date noted below.

FEDERAL HIGHWAY ADMINISTRATION GEORGIA DIVISION BY:

 DATE: 5/13/2015

Rodney N. Barry, Division Administrator

GEORGIA DEPARTMENT OF TRANSPORTATION BY:

 DATE: 5/16/2015

Russell R. McMurtry, Commissioner

References:

[Click here to enter Policy references, if any.](#)

History:

annual review: 01/28/21;

new policy effective 05/13/15 and published 07/16/15

Reviewed: 1/28/2021